

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 103(a) over the Gebert reference in view of the references to Bencini, Wilcox, and Nottes.

Claim 3 is rejected as above and further in view of the various Wesgerbes reference.

Also, claims 2 and 4 are objected to.

In connection with the Examiner's objection to the claims, claims 2 and 4 have been amended correspondingly.

It is respectfully submitted that the claims currently on file clearly and patentably distinguish the present invention from the prior art applied by the Examiner.

Claim 1, the broadest claim on file, defines a method of complex treatment of diesel fuel, in particular in centrifugal force field in a rotor-disc vortex apparatus having corresponding structural elements which perform corresponding functions, in which circulation of the diesel fuel is performed in a closed circuit.

Turning now to the references and in particular to the references applied by the Examiner, It is respectfully submitted that none of the references which are cited by the Examiner against claim 1 as well as against dependent claims disclose the above mentioned specific features of the present invention. In particular, none of them teaches such a method in which a diesel fuel is circulated in a closed circuit including not only heat exchanger, but also a rotor-disc vortex apparatus of open type. This feature is simply not disclosed in the references.

The Examiner rejected the original claims over the combination of the references under 35 U.S.C. 103. Since none of the references teaches the above mentioned features, therefore any hypothetical method produced from the combination of the references would lead to only such a method which would not include these features.

In order to arrive at the applicant's invention as combined, it is necessary to modify the references, in particular by including the above mentioned new features of the present invention which were first proposed by the applicant. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest, it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

It is respectfully submitted that claim defines a vortex apparatus of rotor-disk type which includes corresponding elements with specific features clearly defined in this claim. None of the references teaches the new features of the present invention as defined in claim 5, and any combination of the references would lead only to such an apparatus which would not include these features as well.

In order to arrive at the vortex apparatus of the applicant's invention as defined in claim 5, it is also necessary to modify the apparatuses disclosed in the references by redesigning them and including into them the features which were first proposed by the applicant. The above mentioned legal decision which is cited herein above is fully applicable to the Examiner's rejection of claim 5 as well. Therefore, it is respectfully submitted that claim 5 should be considered as patentably distinguishing over the art and should be allowed.

As for claims 2-4, these claims depend on claim 1, they share its presumably allowable features, and therefore they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue.

Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

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Please extend the term  
for response by 1 month  
and charge to 26.0085

